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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/549,573	06/30/2006	Jens Geiser	278076US6PCT	9542
22850	7590	10/08/2008	EXAMINER	
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			TORRES, ALICIA M	
			ART UNIT	PAPER NUMBER
			3671	
			NOTIFICATION DATE	DELIVERY MODE
			10/08/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/549,573	Applicant(s) GEISER, JENS	
	Examiner ALICIA M. TORRES	Art Unit 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18-27 is/are rejected.
- 7) ☒ Claim(s) 28-34 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 18-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Dow et al.
7,310,929.

Dow et al. discloses a machine (100) for gathering products that lie on the ground, comprising:

a main frame (101) bearing a first lateral gathering device (104) with which a first windrowing device (134) is associated; and

a second lateral gathering device (108) with which a second windrowing device (138) is associated,

wherein the main frame (101) further bears a central gathering device (106) with which a third windrowing device (136) is associated, and

wherein the central gathering device (106) and the third windrowing device (136) are configured to be moved relative to the main frame (101) such that they can be transposed into a first work position (see Figure 2) in which they are aligned with the first (104, 134) and second

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(108, 138) gathering devices and windrowing devices and are substantially adjacent to these and into at least a second work position (see Figures 5, 8 and 9) in which they are offset relative to the first (104, 134) and second (108, 138) gathering devices and windrowing devices;

wherein the central gathering device (106) and the third windrowing device (136) can be offset heightwise (see Figure 7);

wherein the central gathering device (106) and the third windrowing device (136) are connected to the main frame (101) by a lift mechanism (140, see column 5, lines 55-60 and column 5, line 64-column 6, line 5);

wherein the lift mechanism (140) includes connecting arms (two arms of 218 and 144) that are articulated to the main frame (101) by axes that are substantially horizontal and perpendicular to a direction of forward travel and articulated to the third windrowing device (136), which is connected to the central gathering device (106), by axes that are substantially horizontal and perpendicular to the direction of forward travel;

wherein the lift mechanism (140) comprises at least one hydraulic ram (see column 7, lines 32-35) that is articulated to the main frame (101) and to a connecting arm (218);

the connecting arms (218, 144) lie in two planes that are offset relative to one another in the heightwise direction;

wherein the lift mechanism (140) comprises first, second, and third connecting arms of which the first and second arms (218) lie in the same plane and of which the third arm (144) lies in a second plane;

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wherein the third arm (144) lies substantially at equal distances from the first and second arms (of 218);

deflectors (160) configured to guide displaced products arranged on rear sides of the windrowing devices (134, 136, 138).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dow et al. in view of Walch et al. 6,679,038.

The device is disclosed as applied above. However, Dow et al. fail to disclose wherein associated with the third windrowing device is a deflector configured to be moved relative to the third windrowing device.

Walch et al. discloses a similar machine including a deflector (26, 27) configured to move relative to the windrowing device (13).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the removable deflector of Walch et al. on the machine of Dow et al. in order to allow for a transport position.

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Allowable Subject Matter

5. Claims 28-34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kirkpatrick et al., Lohrentz et al. and Stutzmann have been cited as of interest.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 571-272-6997. The examiner can normally be reached Monday through Friday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 571-272-6998.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 571-272-3600. The fax number for this Group is 571-273-8300.

/Alicia M Torres/
Primary Examiner, Art Unit 3671
October 1, 2008